

HOUSE BILL REPORT

ESSB 5452

As Reported by House Committee On:
Financial Institutions & Insurance

Title: An act relating to genetic testing as a condition of life insurance.

Brief Description: Limiting genetic testing as a condition of life insurance.

Sponsors: Senate Committee on Financial Institutions, Housing & Consumer Protection
(originally sponsored by Senators Franklin, Fairley, Stevens, Roach, Benson, Regala, Kline, Rockefeller, Rasmussen and Kohl-Welles).

Brief History:

Committee Activity:

Financial Institutions & Insurance: 3/22/05, 3/31/05 [DP].

Brief Summary of Engrossed Substitute Bill

- Prohibits an insurer from requiring a person to undergo a genetic test or provide previous genetic test results as a condition of offering or renewing life insurance.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass. Signed by 6 members: Representatives Kirby, Chair; Ericks, Vice Chair; O'Brien, Santos, Simpson and Williams.

Minority Report: Do not pass. Signed by 5 members: Representatives Roach, Ranking Minority Member; Tom, Assistant Ranking Minority Member; Newhouse, Serben and Strow.

Staff: Kara Durbin (786-7133).

Background:

Deoxyribonucleic acid (DNA) is the material inside the nucleus of cells that carries genetic information. Genetic disorders are caused by abnormalities (known as mutations) in a person's DNA. These abnormalities are formed by the erroneous addition, deletion, or substitution of chemicals that make up DNA. Gene mutations can occur spontaneously or can be inherited. Mutations also can be caused by environmental factors, such as exposure to chemicals or radiation.

Genetic testing uses a variety of laboratory techniques to determine if a person has a genetic condition or disease or is likely to get the disease. A predictive gene test, for example, can be

used to determine if a person has gene mutations that increase that person's chances of developing a disease.

Life insurance rates are term-based and policies may be periodically reclassified. Life insurance companies can use health care information, including genetic information, to deny coverage or to set initial premiums. There are no laws preventing the use of preexisting conditions in life insurance underwriting. However, once an insurance policy has been in force for two years, the insurer cannot contest the policy, except for nonpayment of premiums.

Summary of Bill:

Insurers may not require a person to undergo a genetic test or provide previous genetic test results as a condition of offering or renewing insurance. Insurers may use genetic information only if it demonstrates the active presence of an illness or disease.

Genetic information is defined as written or recorded information about genes, gene products, or genetic characteristics derived from an individual or a family member of an individual. Chemical, blood, and urine analyses are excluded from the definition, unless they are conducted to diagnose a genetic characteristic. Family histories, as well as drug abuse testing, cholesterol, and HIV tests, are also excluded from the definition of genetic information.

A genetic test is defined as a test of human DNA, RNA, mitochondrial DNA, chromosomes, or other material for the purpose of identifying genes, inherited or acquired genetic abnormalities, or the presence or absence of inherited or acquired characteristics in the genetic material. Cholesterol and HIV tests are excluded from the definition of genetic test.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Dynamic research has taken place in the area of genetics, especially gene mapping. This is our last frontier. It is our personal identity that is at stake. This bill addresses genetic tests that show a predisposition for a disease. A predisposition does not mean a person will actually develop a disease; a person might not develop it until 20 or 30 years from now. This bill makes it clear that if a person is actually diagnosed with a disease, then the life insurer can use that information. Traditional types of testing can still take place, and family history information can still be collected. However, one should not be excluded or have to pay a higher premium based on mere presuppositions. Everyone has genetic flaws of some kind. This language was worked and reworked last year. There are no federal laws that deal with life insurance and the use of genetic information.

Our primary goal is to prevent the misuse of personal genetic information in life insurance. The key is that the presence of genetic markers does not mean that one will actually develop a particular disease. Thus, this type of information should not be used in a discriminatory manner. Genes are not destiny. Eighteen other states have similar laws on the books. It is important to protect against discrimination based on speculative tests.

Testimony Against: We do not support this bill in its current form. Currently, there are no known life insurers that use or require genetic testing as a condition of offering life insurance. We are willing to accept a prohibition on requiring genetic testing as a condition of life insurance, but medical history and diagnostic information should be available to life insurers. We support an amendment to this bill that allows life insurers to continue to use genetic information if it is already contained in a person's medical file. Insurers need to be able to spread risk among a given population base. This bill, in its current form, would have a tremendous impact on the life insurance industry. There needs to be a "meeting of the minds" between the insurer and the insured. Risk classification is at the heart of the insurance industry. Even if a genetic predisposition is known to an insurer, many insurers will continue to extend coverage.

Persons Testifying: (In support) Senator Franklin, prime sponsor; Remy Trupin, Jewish Federation; and Nick Federici, American Lung Association of Washington.

(Opposed) Mel Sorensen, American Council of Life Insurers and National Association of Insurance and Financial Advisors; Mike Kappahn, Farmers Insurance; and Jean Leonard, Washington Insurers and State Farm Insurance.

Persons Signed In To Testify But Not Testifying: None.